

REMARKS

1. Status of the Claims:

Claims 4, 7-9, 12, 13, 15, and 16 are pending in the application and are rejected.

2. Response under 35 CFR 1.116

Claims 4 and 9 are proposed to be amended.

This response seeks to convince the Examiner to remove the final rejection, or failing that to place the amended claims in better form for appeal.

3. The proposed amendment to claims 4 and 9 should be entered.

Claim 4 as proposed to be amended is as follows:

4. *(currently amended) An article comprising:
a support; and
an organic marking material held by said support, the marking
material including a nanocrystalline particulate having a measurable property
non-characteristic of the same marking material in a bulk state, wherein a
luminescence wavelength profile and a median particle size in the particulate of
the marking material both have the same modulation across at least one
dimension of the support ~~such that~~ and the organic marking material luminesces
at a first wavelength at one location of the support and luminesces at a second
different wavelength at another location of the support.*

Claim 9 as proposed to be amended is as follows:

9. *(currently amended) An article comprising:
a support; and
an organic marking material held by said support, the marking
material including a nanocrystalline particulate having a measurable property
non-characteristic of the same marking material in a bulk state, wherein a
luminescence wavelength profile and a median particle size in the particulate of
the marking material both have the same modulation across two dimensions of the
support ~~such that~~ and the organic marking material luminesces at a first
wavelength at one location of the support and luminesces at a second different
wavelength at another location of the support.*

The proposed amendments to claims 4 and 9 are identical and place each claim in better form for appeal by clarifying the issues for appeal in regard to the rejection in the final Office Action. Moreover, the proposed amendments do not raise any new issue that requires further examination and/or search since the proposed amendments have already been considered in substance in the final Office Action.

Support for the proposed amendments to claims 4 and 9 can be found, for example, in the specification at page 5, lines 29-32, page 6, lines 5-14, and page 21, lines 6-14.

5. Claim Rejections - 35 USC § -102, 35 USC § 103

Claims 4, 7-9, 12, 13, 15, and 16 are rejected under 35 U.S.C. §102(a) as being anticipated by Irvin et al. (US 6,695,980 B2).

Claims 4, 6-9, 11-13, 15, and 16 are rejected under 35 U.S.C. §103(a) as being unpatentable over Irvin et al. (US 6,695,980 B2) in view of Kaule et al. (US6,344,261 B1) or Duggal et al. (US 6,700,322 B1).

5.1 The Examiner's rejection of claims 4 and 9 is believed to be in error because the marking material in Irvin et al. does not luminesce as in claims 4 and 9.

Previously presented claims 4 and 9 as examined for the final Office Action recite that:

the organic marking material luminesces at a first wavelength at one location of the support and luminesces at a second (different) wavelength at another location of the support.

The Examiner's position in the final Office Action is that, although Irvin et al. is silent in regard to the claim feature that *the marking material luminesces at a first wavelength at one location of the support and luminesces at a second (different) wavelength at another location of the support* as in claims 4 and 9, the application (at page 12, line 16) and Irvin et al. (at col. 5, lines 46 and 48) each disclose C-545T as a marking material. Based on this, the Examiner concludes that it is "inherent" in Irvin et al. that the marking material C-545T *luminesces at*

a first wavelength at one location of the support and luminesces at a second (different) wavelength at another location of the support as in claims 4 and 9.

Such a position is believed to be in error. The reason for this is that the application describes (at page 5, lines 29-32, page 6, lines 5-14, and page 21, lines 6-14) that the single marking material (C-545T) must be dispersed under several different pressure conditions to produce corresponding different colors from the same marking material. In other words, for C-545T to have the capability of luminescing at first and second different wavelengths at respective locations of a support, it must have been dispersed under corresponding different pressures. Since the marking material in Irvin et al. is not dispersed under different pressures, it will not luminesce at first and second different wavelengths at respective locations of a support as in claims 4 and 9. See Irvin et al. at col. 5, lines 46-54.

Accordingly, the rejection of claims 4 and 9 is believed to be in error should be removed.

CONCLUSION

This response seeks to convince the Examiner to remove the final rejection, or failing that to place the amended claims in better form for appeal.

The Examiner is invited to call the undersigned in the event that a telephone interview will expedite prosecution of the application towards allowance or reduction of the issues.

Respectfully submitted,



William R. Zimmerli
Attorney for Applicant(s)
Registration No. 45,287

William R. Zimmerli/rgd
Rochester, NY 14650
Telephone: 585-588-2758
Facsimile: 585-477-4646

If the Examiner is unable to reach the Applicant(s) Attorney at the telephone number provided, the Examiner is requested to communicate with Eastman Kodak Company Patent Operations at (585) 477-4656.